Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	
Connect America Fund	WC Docket No. 10-90
A National Broadband Plan for Our Future	GN Docket No. 09-51
High-Cost Universal Service Support	WC Docket No. 05-337

COMMENTS OF THE MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

Commonwealth of Massachusetts
Department of Telecommunications and Cable

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Dated: July 12, 2010

TABLE OF CONTENTS

I. INTRODUCTION

The Massachusetts Department of Telecommunications and Cable ("MDTC")[1] hereby files comments in response to the Notice of Inquiry and Notice of Proposed Rulemaking ("*USF NOI/NPRM*") issued by the Federal Communications Commission ("FCC" or "Commission") on April 21, 2010, in the above-reference proceedings.[2] Through the NPRM, the Commission seeks comment on more immediate and "specific proposals to cap and cut the legacy high-cost [universal service] programs" until final transition to the new Connect America Fund ("CAF").[3] Through the NOI, the Commission seeks comment on two primary issues: (1) on whether a competitive procurement auction is the best way to create an expedited process to provide targeted funding for broadband deployment in unserved areas during the transition period before full implementation of the CAF;[4] and (2) "on use of a model as a competitively neutral and efficient tool for helping … to quantify the minimum amount of universal service support necessary to support networks that provide broadband and voice services."[5]

The MDTC welcomes this opportunity to respond to the Commission's inquiries and applauds the Commission's initiative to implement much needed comprehensive universal service reform and its continued commitment to increase public access to broadband services,

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1 The MDTC is the exclusive state regulator of telecommunications and cable services within the Commonwealth of Massachusetts. *See* MASS. GEN. LAWS ch. 25C, § 1.

2 *See Connect America Fund*, WC Docket No. 10-90, *A National Broadband Plan for Our Future*, GN Docket No. 09-51, *High-Cost Universal Service Support*, WC Docket No. 05-337, Notice of Inquiry and Notice of Proposed Rulemaking, FCC 10-58 (rel. Apr. 21, 2010).

3 *Id.*, at ¶ 13.

4 *Id.*, at ¶¶ 43-48.

5 *Id.*, at ¶ 13.

consistent with the National Broadband Plan's ("Broadband Plan" or "Plan") recommendations.[6] The MDTC offers the following for consideration.[7]

II. DISCUSSION

A. MDTC RESPONSE TO NPRM REFORMS

The Commission seeks comment on several, more immediate reforms applicable to the high-cost portion of the Universal Service Fund ("USF").[8] First, the Commission seeks to control the size of the current high-cost program by capping incumbent local exchange carrier ("ILEC") support levels, similar to the cap already imposed by the Commission on competitive ETCs ("CETCs") in 2008.[9] Second, the Commission proposes to take specific steps to reduce legacy high-cost support by: (1) eliminating CETC support entirely; (2) eliminating interstate access support ("IAS"); and (3) shifting rate-of-return carriers to some form of incentive regulation (price cap regulation or some other alternative approach).[10] The Commission anticipates tranferring to the CAF any money saved through these proposals to provide support to broadband deployment in unserved areas.[11]

The MDTC limits its comment to the Commission's proposals to cap ILEC support and eliminate both CETC support and IAS. The MDTC also briefly discusses its concerns with

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[6] FCC, CONNECTING AMERICA: THE NATIONAL BROADBAND PLAN (2010), *available at* http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-296935A1.pdf (last viewed Jul. 9, 2010) ("National Broadband Plan" or "Plan").

[7] The MDTC's silence on any particular issue presented by the Commission should not be construed as rejection or support of that issue

[8] *USF NOI/NPRM*, ¶¶ 51-62.

[9] *Id.*

[10] *Id.*, at ¶¶ 53-62.

[11] *Id.*, at ¶¶ 2, 13, 50.

relation to the Commission's failure to address carrier-of-last-resort ("COLR") obligations imposed by many states on ILECs.

1. ***Proposal to Cap ILEC Support***

The MDTC applauds the Commission's decision to cap ILEC support and concurs with the Commission that such a step will help to minimize the burden on consumers "who ultimately pay for universal service through carrier pass-through charges."[12] In response to the Commission's inquiries on how best to impose this cap, the MDTC makes three recommendations: (1) the Commission should apply the cap to each ILEC's individual high-cost support mechanisms for each state; (2) the Commission should ensure that reductions apply if the uncapped support amount would be lower than the capped amount; and (3) the caps should be immediate upon the effective date of the Commission order mandating the caps. The MDTC recognizes that this overall approach would be stricter than the high-cost cap requirements imposed on CETCs in 2008. Therefore, notwithstanding the Commission's proposal to eliminate CETC support entirely (addressed in the next section of these comments), the MDTC simply urges the Commission to reassess the CETC capping requirements in the near future.[13]

The MDTC first recommends that the Commission cap all ILECs' individual high-cost support mechanisms for each state in which the ILEC receives support. Such an approach is

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12 *Id.*, at ¶¶ 51-52. *See also*, MDTC Comments, *In the Matters of High-Cost Universal Service Support*, et. al., WC Docket No. 05-337, at 21-22 (filed Nov. 26, 2008) ("MDTC Nov. 2008 Comments") (supporting the Commission's proposed cap on high-cost support).

13 *See High-Cost Universal Service Support*, WC Docket No. 05-337, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, 23 FCC Rcd 8834, FCC 08-122 (rel. May 1, 2008), *aff'd*, Rural Cellular Ass'n v. FCC, 588 F.3d 1095 (D.C. Cir. 2009) ("*CETC Cap Order*"). In the *CETC Cap Order*, the Commission capped total CETC support for each state with the rationale that such a cap "will allow a state the flexibility to direct [CETC] support to the areas in the state that it determines are most in need of such support … will avoid creating an incentive for each state to designate … new ETCs … for the sole purpose of increasing support to that state … [and] will require newly-designated [CETCs] to share funding with other [CETCs] within the state." *Id.*, at ¶ 26 (citations omitted). The Commission also mandated that no reduction factor would apply when "the state uncapped support [i.e., per line identical support] is less than the available state capped support." *Id.* at ¶ 27.

consistent with previous Commission decisions to cap certain high-cost elements including capping ILEC high-cost loop support and setting IAS at a "targeted limit" of $650 million per year.[14] Indeed, the Commission has also already specifically capped IAS payments to both ILECs and CETCs at the March 2008 amounts that they were eligible to receive.[15] In addition, the rationale applied by the Commission to cap total CETC support at state levels would not extend to ILECs, since there is a single ILEC per support area (i.e., any ETCs newly designated by states will be CETCs and CETC support is already capped).[16] Finally, such an approach would permit the Commission to more easily make targeted reductions to the various mechanisms as it transitions from the High Cost Fund to the CAF.

The MDTC next recommends that the Commission ensure that reductions apply to individual ILEC support mechanisms if the uncapped support amount would be lower than the capped amount. For instance, overall ILEC high-cost support nationwide has consistently decreased since 2005.[17] In particular, these reductions can be attributed to overall reductions in high-cost loop support, high-cost model support, IAS, and local switching support for the same time period.[18] If, indeed, ILEC support for certain mechanisms would continue to decrease, then it would be a more efficient and proper distribution of funding to ensure that ILECs do not receive *more* support than they require.

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14 *See* 47 C.F.R. §§ 36.603, 54.801(a). *See also CETC Cap Order*, ¶ 10 (discussing the caps already imposed on ILECs).

15 *See CETC Cap Order*, ¶ 35.

16 *Supra* at n.13.

17 *See* Federal-State Joint Board on Universal Service, *Universal Service Monitoring Report – Data Received Through August 2009*, CC Docket No. 96-45, Tables 3.2 and 3.15 ("*2009 Monitoring Report*"). The MDTC's comments do not address the possible underlying causes for overall ILEC support reductions over the past few years.

18 *Id.*, Table 3.2. Certain of these mechanisms saw some increase in particular years, but the overall support for each of these particular mechanisms has consistently decreased since 2005.

Finally, the MDTC recommends that the Commission mandate that any ILEC caps commence upon the effective date of the Commission order implementing those caps. Such an approach is comparable to the Commission's decision in the *CETC Cap Order*.[19]

2. ***Proposal to Eliminate CETC Support***

The MDTC opposes a blanket elimination of CETC support and reaffirms its previous position that such an elimination of support "is patently discriminatory and unfair in that it provides ILECs with an unfair competitive advantage in rural areas."[20] Instead, the Commission should readdress elimination of the identical support rule and instead require CETCs to receive support based on their own costs.[21] Further, the Commission should limit the number of CETCs per support area.[22] These measures "would free up funding that could be utilized in other ways, such as for support of broadband[,]" although the Commission would not see the same level of freed funding for broadband that a complete elimination of CETC support would provide.[23]

The MDTC recommends that the Commission request Congress to revisit the appropriations prohibition against implementing the single connection per household rule proposed by the Federal-State Joint Board on Universal Service ("Joint Board") in 2004.[24] As

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19 *See CETC Cap Order*, ¶ 36.

20 MDTC Nov. 2008 Comments, at 22.

21 *Id*. *See also High-Cost Universal Service Support*, WC Docket No. 05-337, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Notice of Proposed Rulemaking, 23 FCC Rcd. 1467, FCC 08-4 (rel. Jan. 29, 2008) (seeking comment on elimination of the identical support rule and basing CETC support on costs) ("*Identical Support Rule NPRM*").

22 MDTC Nov. 2008 Comments, at 22.

23 *Id*. *See also USF 2009 Monitoring Report*, Table 3.2 (projecting total CETC support for 2009 at roughly $1,419,700,000 compared to $3,037,400,000 for ILECs).

24 *See Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Recommended Decision, 19 FCC Rcd. 4257, FCC 04J-1, ¶¶ 54-87 (rel. Feb. 27, 2004) (recommending that the Commission limit high-cost support to a single or "primary" line connection). *See also* Consolidated Appropriations Act, 2005, Pub. L. No. 108-447, § 634, 118 Stat. 2809 (2004) (prohibiting the Commission from utilizing appropriated funds to "modify, amend, or change its rules or regulations for Universal Service support payments to implement the February 27, 2004 recommendations of the Federal-State Joint Board on Universal Service regarding single connection or

the Commission itself has previously noted, wireless competitive ETCs receive a majority of CETC support, and those carriers "largely provide mobile wireless telephony service in addition to a customer's existing [subsidized] wireline service."[25] If the Commission were able to reduce duplicative support on a rational and fair basis (as opposed to complete elimination of CETC support) by implementing some variation of the Joint Board's 2004 recommendation, then the USF would realize substantial savings during the transition to the CAF. Such a measure would be comparable to the "one-per-household" rule already in place for the low-income programs.[26] In addition, such a measure would correspond more closely to the National Broadband Plan recommendation that "[t]here should be at most one subsidized provider of broadband per geographic area."[27]

Should the Commission decide to go forward with eliminating CETC support, then MDTC, in the interests of fairness and predictability, recommends only that the Commission phase out support uniformly among all CETCs.

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primary line restrictions on universal service payments"); Science, State, Justice, Commerce and Related Agencies Appropriations Act 2006, Pub. L. No. 109-108, § 622, 119 Stat. 2342 (2005) (extending prohibition); Revised Continuing Appropriations Resolution 2007, Pub. L. No. 110-5, § 105, 121 Stat. 9 (2007) (extending prohibition); Consolidated Appropriations Act, 2008, Pub. L. No. 110-161, § 511, 121 Stat. 1998 (2007) (extending prohibition); Omnibus Appropriations Act, 2009, Pub. L. No. 111-8, § 502, 123 Stat. 524 (2008) (extending prohibition); and Consolidated Appropriations Act, 2010, Pub. L. No. 111-117, § 502, 123 Stat. 3034 (2009) (extending prohibition). *See also* Letter from Congressman Ed Markey to [former] Chairman Kevin Martin, Attachment at 3 (dated Apr. 2, 2007) (inquiring whether the Chairman would "support implementation of the primary line restriction recommended by the Joint Board in 2004 if Congress lifted the prohibition on this policy"), *available at:* http://markey.house.gov/docs/telecomm/Chairman%20Markey%20Letter%20to%20FCC%20Chairman%20re%20Universal%20Service.pdf (last viewed Jul. 9, 2010).

25 *Identical Support Rule NPRM*, ¶¶ 9-10 (citations omitted). *See also CETC Cap Order*, ¶ 21 (stating that "many households subscribe to both services and receive support for both lines") (citations omitted).

26 *See Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, FCC 97-15, at ¶ 341 (rel. May 8, 1997) (stating "qualifying subscribers may receive [Lifeline] assistance for a single telephone line in their principal residence); 47 C.F.R. § 54.411(1) (specifying that consumers may receive a reduction "for a single telecommunications connection at the consumer's principal place of residence" under the Link Up program).

27 USF NOI/NPRM, ¶ 10, *citing* National Broadband Plan at 145.

3. ***Proposal to Eliminate IAS***

The Commission seeks comment on elimination of IAS and on any time frame "that may be necessary to ensure that recipients continue to be able to provide voice services during the transition."[28] The Commission cites only to the Commission's unrealized intent to revisit this mechanism when it created IAS, and to the National Broadband Plan's recommendation that the Commission implement this reform.[29] The MDTC does not currently offer support or opposition to this proposal. However, the MDTC notes that elimination of IAS would eliminate the sole source of high-cost support for Verizon Massachusetts, a non-rural carrier that operates throughout Massachusetts, and would reduce by more than half the limited high-cost funding that Massachusetts carriers currently receive.[30] The MDTC would expect that any elimination of high-cost funding by net-payor states such as Massachusetts will be offset by a more equitable distribution of money to states through the CAF and/or through interim measures for broadband deployment taken by the Commission during the transition.[31] With regard to the Commission's

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28 USF NOI/NPRM, ¶¶ 57-58.

29 *Id*., *citing Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers; Low-Volume Long Distance Users; Federal-State Joint Board on Universal Service*, CC Docket Nos. 96-262, 94-1, 99-249, 96-45, Sixth Report and Order, Report and Order, and Eleventh Report and Order, 15 FCC Rcd 12962, FCC 00-193, ¶ 203 (rel. May 31, 2000), *aff'd in part, rev'd in part, and remanded in part,* Texas Office of Public Util. Counsel et al. v. FCC, 265 F.3d 313 (5th Cir. 2001); *on remand, Access Charge Reform; Price Cap Performance Review for LECs; Low-Volume Long Distance Users; Federal-State Joint Board on Universal Service*, CC Docket Nos. 96-262, 94-1, 99-249, 96-45, Order on Remand, 18 FCC Rcd 14976, FCC 03-164 (rel. Jul. 10, 2003). *See also* National Broadband Plan at 147.

30 *See 2009 Monitoring Report*, Tables 1.12 and 3.28. In fact, based on the Joint Board's 2008 numbers, if the Commission eliminated IAS support, then the Commonwealth's total high-cost support would decrease from $2,365,000 to $862,654. *Id*.

31 Under the current system, based on the numbers for 2008, when the total support payments received per state are divided by state contributions, this amount equate to about .223 for Massachusetts. *See Id.*, Table 1.12. In other words, Massachusetts receives back about only 22 cents per universal service dollar that it contributes. Compare that total to the 4.97, or $4.97, received back by Mississippi for each universal service dollar that it contributes. *Id*. Obviously, both states lay on two different ends of the spectrum with regard to the benefit received from the program. For those outlier net-payor states such as Massachusetts, this result hardly seems fair or equitable.

decision to eliminate IAS, the MDTC recommends only that the transition for carriers receiving IAS be comparable to other reform measures to ensure consistency, fairness, and predictability.

4. ***COLR Obligations***

The MDTC is troubled by the Commission's failure to raise carrier-of-last resort obligations for comment in the instant *USF NOI/NPRM*, or, for that matter, to address those obligations more directly in the National Broadband Plan.[32] Although COLR obligations are historically state-imposed requirements,[33] the Commission needs to address the impact that USF reforms will have on those obligations. In Massachusetts, the COLR is required to serve an exchange "if a particular area or exchange is either left without or not provided with telephone

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32 *See* National Broadband Plan, at 59 (recommending that the Commission commence a proceeding to address the transition from the legacy circuit-switched network to an all IP-based network and in which the Commission should consider, in part, the question of carrier of last resort obligations), 137 (specifying that the Plan's cost model estimates do not "take into account the impact on existing recipients of support if other providers receive support to build out broadband in an area where the current provider has a carrier of last resort obligation"), and Appendix C (defining a COLR as "[t]he carrier that commits (or is required by [state] law) to provide service to any customer in a service area that requests it, even if serving that customer would not be economically viable at prevailing rates"). *See also* Anna-Maria Kovacs, "Universal Service Hearing in Senate Commerce Committee," *Telecom Regulatory Note* (Jun. 25, 2010) (stating "the Plan does not take on the COLR issue directly. More accurately, since the concept of transition is included, the Plan does not appear to be based on a model that takes all costs that impact COLR into account"). Indeed, the National Broadband Plan's cost model description, provided as Appendix C to the *USF NOI/NPRM*, specifies briefly that "[i]n areas where a wireless provider receives support to provide both voice and broadband service, the [ILEC] may need to be relieved of any carrier-of-last-resort obligations to serve customers in that area." Omnibus Broadband Initiative, *The Broadband Availability Gap (OBI Technical Paper No. 1)*, at 38 (rel. Apr. 2010) ("OBI Technical Paper No. 1"). This paper does not address whether carriers that receive support should take on COLR obligations.

33 For instance, the Department's predecessor imposed COLR obligations on Verizon for "local exchange service and intra-LATA MTS, WATS, and PLS … to ensure the continuation of universal service in the Commonwealth." *Petition of the Attorney General for a Generic Adjudicatory Proceeding Concerning Intrastate Competition by Common Carriers in the Transmission of Intelligence by Electricity, Specifically with Respect to Intra-LATA Competition, and Related Issues, Filed with the Department on December 20, 1983*, D.P.U. 1731, Order, at 75-76 (rel. Oct. 18, 1985) ("D.P.U. 1731"). The Department later permitted Verizon to file an Alternate Regulation Plan ("Alt-Reg Plan") for its intrastate services in place of its previous price cap regulation requirements. *See Investigation by the Department of Telecommunications and Energy on its own Motion into the Appropriate Regulatory Plan to succeed Price Cap Regulation for Verizon New England, Inc. d/b/a Verizon Massachusetts' intrastate retail telecommunications services in the Commonwealth of Massachusetts*, D.T.E. 01-31-Phase II, Order, at 101 (Apr. 11, 2003) ("*Phase II Order*"). In particular, the Department mandated that Verizon's basic local exchange telephone service for residential customers still be regulated at prices set by the Department, but permitted most of Verizon's other rates and services to be subject to market-based pricing. *Id*. at 66-68, 85-86, 92-94. *See also D.T.E. 01-31-Phase I Order*, at 93 (May 8, 2002). This decision ensured that Massachusetts consumers continued to receive affordable basic telephone service throughout the Commonwealth. *See Phase-II Order*, at 79, 84.

service."[34] The Commission needs to ensure that American consumers' ability to subscribe to *affordable*, basic voice service does not fall by the wayside.

B. MDTC RESPONSE TO NOI INQUIRIES – PROCUREMENT AUCTIONS

The Commission requests comment on immediate and interim ways for accelerated distribution of funding for broadband-capable networks in unserved areas before the Commission fully implements the final rules for the CAF.[35] In particular, the Commission seeks comment on "whether some form of competitive procurement auction could be an efficient mechanism to determine [one-time] subsidies for the extension of new broadband-capable infrastructure in unserved areas."[36] As a part of its inquiry, the Commission cites to a report drafted by 71 economists[37] that advocates the use of procurement auctions to allocate broadband stimulus grants under the Recovery Act.[38] The Commission indicates that this proposal "is similar in many ways to reverse auction proposals that have been previously considered by the Commission" and requests comment on various aspects of the economists' proposal.[39]

In their proposal, the economists addressed the shortcomings of a traditional grant application process and discussed why procurement auctions are better suited for the disbursement of stimulus funds, arguing that traditional approaches for distributing grants are cumbersome and slow and that procurement auctions can allocate funds more flexibly,

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34 *See* D.P.U. 1731, at 71.

35 *USF NOI/NPRM*, ¶ 43.

36 *Id.*, at ¶ 47.

37 *Id.*, at ¶ 44, *citing* Paul Milgrom, Gregory Rosston, Andrzej Skrzypacz & Scott Wallston, "Comments of 71 Concerned Economists: Using Procurement Auctions to Allocate Broadband Stimulus Grants," (April 13, 2009) (submitted to NTIA and Rural Utilities Service (RUS)) ("*71 Economists' Proposal*" or "*Proposal"*). The Commission includes this Proposal as Appendix B to the *USF NOI/NPRM*.

38 *See* American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009) ("Recovery Act"). The President signed the Recovery Act into law on February 17, 2009.

39 *USF NOI/NPRM*, ¶¶ 45, 48. *See also 71 Economists' Proposal*, at 3 (stating that that simplest procurement auction is a reverse auction).

efficiently, and fairly.[40] The proposal specifies that clear selection criteria are critical for any selection program and proposes a procurement auction design for allocation of broadband subsidies.[41] The proposal addresses issues such as process considerations and compliance and accountability.[42] Finally, the proposal encourages an experimental auction prior to full implementation of procurement auctions for disbursement of funding in order to permit "some real world analysis … to see how auctions perform compared to the traditional [grant] process."[43]

In response to the Commission's inquiries and the Proposal, the MDTC supports the use of a reverse procurement auction in the interim as a way to provide one-time subsidies for deployment of broadband infrastructure in unserved areas. The MDTC believes that a reverse procurement auction has the potential to provide an efficient allocation of finite funds that the Commission anticipates will be derived from some of the savings earned through the reform proposals set forth in the NPRM. Therefore, as the Commission frees up high-cost universal service support during the transition to the CAF, the MDTC recommends that the Commission, similar to the *71 Economists' Proposal*, first conduct limited pilot procurement auctions for a few unserved regions in order to validate the anticipated efficiency of the auction methodology and to fine-tune the auctioning rules, scoring, and evaluation processes for future auctions.[44] If

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40 *See 71 Economists' Proposal*, at 2-3.

41 *Id.*, at 4-6.

42 *Id.*, at 6-8.

43 *Id.*, at 9.

44 *Id*. Parties have previously advocated a similar approach. *See, e.g., High-Cost Universal Service Support*, WC Docket No. 05-337, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Notice of Proposed Rulemaking, 23 FCC Rcd 1495, FCC 08-5, ¶¶ 6-9 (rel. Jan. 29, 2008) ("*Reverse Auctions NPRM*"), *citing* Letter from Kathleen Grillo, Vice President Federal Regulatory, Verizon, to Deborah Taylor Tate, Federal Chair and Ray Baum, State Chair, Federal-State Joint Board on Universal Service, WC Docket No. 05-337, CC Docket No. 96-45, Appendix ("Modernizing Universal Service: A Design for Competitive Bidding"), (dated Feb. 9, 2007), and Letter from Gene DeJordy, Vice President Regulatory Affairs, Steve R. Mowery, Vice President Public Policy, and Mark

the pilot leads to efficient and positive outcomes for broadband deployment, then the Commission could utilize this experience to implement additional procurement auctions as one tool for broadband expansion under the CAF.

The MDTC believes that proper design of the one-time pilot auction is critical for the efficient distribution of universal service funds towards broadband deployment.[45] As such, the MDTC offers the following recommendations for the Commission to utilize when establishing the parameters of the pilot procurement auction. These recommendations are not inclusive of all possible issues relating to auctions, but they are a good starting point.[46]

As an initial step, the Commission needs to clearly define the geographic boundaries of all unserved areas to which broadband funding could be targeted.[47] For instance, the Commission may target funding to "areas identified as 'unserved' [by the NTIA and state designated mapping entities] once the Broadband Data Improvement Act mapping is completed in February 2011."[48] The Commission may also enact its own definition of 'unserved' based on the Commission's own data or, more accurately, based on the data that broadband providers are required to file with the Commission.[49] The definition should ideally be at a census block level

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Rubin, Vice President Federal Government Affairs, Alltel, to Deborah Taylor Tate, Federal Chair, and Ray Baum, State Chair, Federal-State Joint Board on Universal Service, WC Docket No. 05-337, CC Docket No. 96-45 (dated Feb. 16, 2007) (attaching Alltel Universal Service Reform Proposals).

45 The MDTC also believes that this method will allow towns and state broadband agencies to continue their efforts to promote broadband deployment. For instance, these state and local entities could invest in common broadband infrastructure projects which will enable bidders to place more competitive bids and thereby increase the likelihood of winning subsidies for their regions.

46 For instance, the MDTC does not address any potential requirements imposed on providers in order to even participate in the auction.

47 *See 71 Economists' Proposal*, at 5 (specifying that under both procurement auctions and grants, this approach is required).

48 *USF NOI/NPRM*, ¶ 43, *citing* Broadband Data Improvement Act of 2008, Pub. L. No. 110-385, 122 Stat. 4096 (codified at 47 U.S.C. §§1301-1304).

49 *See*, *e.g.*, FCC Form 477.

or more granular level, but if such data is not available, then larger boundaries such as census tract or county levels may be used instead.[50] However, if the Commission defines unserved areas at a more aggregate level such as at the county level, then it must take efforts to identify and exclude areas within the county which currently are reachable by broadband services. Specifically, the Commission needs to ensure that it allocates finite resources from the USF to unserved areas as efficiently as possible. If funding permits, then the Commission may consider permitting use of funding to help subsidize upgrades that would otherwise be cost prohibitive for providers.

Once the Commission defines the unserved areas eligible for funding, the MDTC recommends that the Commission permit bidding parties to define the geographic area that they seek to bid on from within the larger block of areas that are being auctioned. The MDTC recognizes that such an approach "potentially differs from some reverse auction proposals in that bidding parties themselves would be allowed to specifically define the geographic units and other service characteristics associated with their bids," but it is consistent with the recommendations set forth in the economists' proposal.[51] If the Commission forced providers to bid for rigid geographical areas, the MDTC recognizes that this may be an inefficient approach. For instance, because the technology and business models of providers are varied, it would likely be impossible for the Commission to draw up a geographic area that is completely technology agnostic and which would not give one or more of the parties an inadvertent competitive advantage in the auction. The MDTC also acknowledges that if bidders are allowed to define

[50] The MDTC acknowledges that the National Broadband Plan's cost model estimates the amount of additional funding required to close the broadband availability gap by assessing the gap of various technologies at the county level. *See USF NOI/NPRM*, ¶ 41, *citing* OBI Technical Paper No. 1 at 37.

[51] *USF NOI/NPRM*, ¶ 45.

their bid areas, then there may be bids for geographic areas that overlap one another. While this could increase the complexities of the bid evaluation process, these complexities may be addressed through establishment of bid scoring systems that maximize the number of households reached for the finite funds available for that particular auction.[52]

In the NOI, the Commission raised the possibility that there may be very few bidders in certain geographic areas, which would necessitate the need to set a reserve price.[53] However, it may be possible for the Commission to design a market-based auction mechanism that does not require the establishment of a reserve price. In particular, the MDTC recommends that funds be first allocated to the region where the subsidy sought is the lowest (per household), and then to the next lowest subsidy and so on until all the available funds are utilized.[54] The winning bid, by necessity, should not only be the lowest for the region but also low enough as part of the entire auction to qualify for funding. Such a method should exert sufficient downward pressure on the subsidies sought by firms and should lead to a more efficient allocation of the limited resources in the CAF.[55] Further, it should not be necessary for the Commission to develop an elaborate cost model under this approach.[56] As long as there are multiple firms competing for broadband funding in a region, then the market-based mechanisms built into the auctioning process should ensure that the expenditures from the CAF are at efficient levels.

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[52] *Id.* (acknowledging the need for some form of scoring system under this auction method).

[53] *Id.*, at ¶ 20.

[54] This approach is strongest for the one-time pilot procurement auction proposed, since, as the Commission points out, this approach "does not appear suitable for areas where operating costs exceed revenues and … where continuing support is required." *Id.*, at ¶ 45.

[55] *See 71 Economists' Proposal*, at 4-5.

[56] *USF NOI/NPRM*, ¶ 45.

The MDTC also recommends that the Commission require that parties participating in the auctions should bid for the subsidy for each subscriber they actually serve.[57] This approach is comparable to the support provided under the universal service low-income programs.[58] The Commission should also require bidders to commit to a minimum number (or percent) of households they will enroll in the geographic area for which they are bidding. As such, the Commission should also consider building into the funding mechanism a system of penalties and incentives for providers who fail to meet or exceed their commitment on the number of households they actually serve.

Finally, the MDTC recommends that the Commission select only one unique provider for each location under this auction. This comports with the Commission's previous tentative conclusion that "universal service support auctions should award high-cost support to a single winner."[59] Overall, single-winner auctions should require less overall support than multiple-winner auctions.[60] Further, the Commission should consider limits on the period of exclusivity and tenure of the subsidy.

B. MDTC RESPONSE TO NOI INQUIRIES – COST MODEL

The Commission requests comment on the need for a cost model or cost/revenue model to determine future support for the CAF.[61] Specifically, the Commission seeks comment on whether the National Broadband Plan model should be used as a starting point for developing a cost model, and invites comment on any details of the National Broadband Plan model that may

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57 The economists offered a similar proposal as an example. *See 71 Economists' Proposal*, at 4 (stating as an example that "bids could consist of subsidy requested per household connected or per household to which broadband service is newly available.")

58 *Supra* at n.26.

59 *Reverse Auctions NPRM*, ¶ 14.

60 *Id*.

61 *USF NOI/NPRM*, ¶ 13-40.

be relevant to reforming the universal service support mechanisms.[62] The Commission notes that in the event it initiates a market-based support mechanism, a cost model may be used to set reserve prices in the absence of sufficient bidding in specific areas.[63] The model may also serve as a tool to identify the most costly areas to serve, noting that the National Broadband Plan model estimates that 3.6% of the unserved population account for nearly half of the estimated broadband investment gap.[64]

The MDTC believes that the development of a cost model or cost/revenue model is premature in this early phase of the CAF transition period although supports continued debate on the topic. As previously explained, the MDTC believes that the reverse procurement auction process has the potential to yield appropriate and efficient cost signals for universal service, thus mitigating the need to prepare complex predictive models with insufficient data. The MDTC takes note of a CostQuest study examining the use of reverse auctions for universal service in several countries, concluding, in part, "one important outgrowth of the reliance on market forces is the reduced reliance on (or elimination of the need for) cost information."[65]

With regard to the specific issue of the National Broadband Plan model, the MDTC applauds the efforts of the Commission in developing such a cost model for informational purposes but does not believe the Commission currently holds or collects sufficient data to improve upon the reliability of the model as a tool for appropriating CAF support. The National Broadband Plan model admittedly makes broad assumptions regarding the availability of

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62 *Id.*, at ¶ 14.

63 *Id.*, at ¶ 20-21.

64 *Id.*, at ¶ 22, *citing National Broadband Plan* at 137-138.

65 James Stegeman, Dr. Steve Parsons, Robert Frieden, and Mike Wilson, *Controlling Universal Service Funding and Promoting Competition Through Reverse Auctions*, at 14, 2006, *available at*: www.costquest.com/costquest/docs/reverse_auctions_paper_attachment_110806.pdf (last viewed Jul. 9, 2010).

services and the accessibility and capacity of infrastructure.[66] Addressing these gaps in data will be a lengthy process, and in light of a market-based support mechanism addressing these data gaps may prove to be unnecessary. To wit, the National Broadband Map effort began in June 2009 and is scheduled for release in February 2011. Should this worthwhile effort yield availability at the census block level for all areas, this will still have the potential to overestimate service coverage in a number of areas.[67]

III. CONCLUSION

In summation, with regard to the NPRM, the MDTC supports an ILEC support cap and recommends that the Commission (1) apply the cap to each ILEC's individual high-cost support mechanisms for each state; (2) ensure that reductions apply if the uncapped support amount would be lower than the capped amount; and (3) ensure that the caps take immediate effect. The MDTC opposes complete elimination of CETC support but proposes that the Commission revisit elimination of the identical support rule and impose a requirement that CETCs receive support based on their own costs. Further, the MDTC recommends that the Commission request that Congress revisit the prohibition against implementation of the primary line restriction recommended in the 2004 Joint Board recommendation. The MDTC generally addresses the Commission's proposal to eliminate IAS and expresses concern over the Commission's failure to address COLR obligations.

In response to the NOI, the MDTC supports and offers recommendations towards the use of a reverse procurement auction in the interim (i.e., a pilot auction) as a way to provide one-time

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66 *USF NOI/NPRM*, ¶ 12, *citing National Broadband Plan* at 1-3.

67 For example, in Massachusetts the largest census block measures over 12 square miles in size, greater in size than the city of Cambridge. Relying on a process where potentially one customer has access to service in such a large area yet marking that full area as "served" masks the true level of accessibility.

subsidies for broadband deployment. Finally, MDTC expresses its belief that the development of a cost model or cost/revenue model is premature in this early phase of the CAF transition period but supports continued debate on the topic.

Thank you for this opportunity to comment.

Respectfully submitted,

_________/s/______________________
Geoffrey G. Why
Commissioner